IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 5057 of 2007(B)

PETITIONER:

IDUKKILAKATH ASSAINAR,
S/O.KUNHAMINA UMMA, 58 YEARS,
KEEZHALLOOR AMSOM, EDAYANNUR DESOM,
P.O.EDAYANNUR, THALASSERY TALUK.

BY ADV. SRI.K.V.PAVITHRAN
SRI.JAYANANDAN MADAYI PUTHIYAVEETTIL

RESPONDENT:

SPECIAL TAHSILDAR (L.A.)
THALASSERI, LAND ACQUISITION OFFICE,
NARANGAPURAM, P.O.THALASSERY.

BY GOVERNMENT PLEADER SHRI BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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WP(C) NO. 5057 OF 2007

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Dated this the 24th day of October, 2007

J U D G M E N T

Petitioner's land was acquired for a public purpose and compensation was awarded. Since the petitioner did not make any claim for enhancement, the matter was not referred to the Sub Court for adjudication. Subsequently, when petitioner came to know about the award of additional compensation to a neighbouring property owner, petitioner filed Exhibit P3 application before the Land Acquisition Officer. In the cause title of the application it was stated that the application was filed under Section 18(1) of the Land acquisition Act. The Land Acquisition Officer took a view that since the claim is under Section 18(1) of the Act, the application ought to have been filed within 42 days within the date of passing of the award. The application was dismissed. Challenging that order, this Writ Petition is filed.

2. It is true that in the cause tittle, it is stated that the application was filed under Section 18(1) of the Act. In answer to column No.8 of the application, it was

specifically stated that in view of the award passed in L.A.R. No.302 of 2001 of the Sub Court, Thalassery dated 20,7.2005 petitioner is entitled to get the compensation redetermined. In answer to column No.9(1) petitioner has stated that the application was filed under Section 28A (3). Again it was stated that the date of award under Section 18A of the Act is 20.7.2005. But towards the end of the application, petitioner has stated that the reference application was filed under Section 28(1) of the Act. It is evidently clear that the application filed in this case was under Section 28A of the Act for redetermination of the compensation on account of the award passed in L.A.R. No.302 of 2001. Land Acquisition Officer has not considered whether Exhibit P3 was filed within the period of limitation prescribed under the Act in relation to Section 28A application and also whether the petitioner is entitled to get the compensation awarded to him redetermined. So the mater requires reconsideration. The order passed by the Land Acquisition Officer on

28.1.2007, which is produced and marked as Exhibit P4 is liable to be quashed.

In the result, Writ Petition is allowed. Exhibit P4 is hereby quashed. The Land Acquisition Officer is directed to treat Exhibit P3 as an application filed under Section 28A of the Act and take a decision afresh in accordance with law as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 5057 OF 2007

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J U D G M E N T

24TH OCTOBER, 2007